


IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Mark: FIRST-BITE  
Registrant: Ralston Purina Company  
Registration Number: 2,213,091  
Serial Number: 75/441,025  
Registration Date: December 22, 1998

To: Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, VA 22202-3514

I hereby certify that this correspondence is being deposited with the United States Postal Service "Express Mail Post Office To Addressee" service, Express Mail Label No. EV 138897996 US in an envelope addressed to:

Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, VA 22202-3514

  
\_\_\_\_\_  
Jennifer Shmulewitz Date 6/27/03

**Surrender for Cancellation**

Pursuant to 15 U.S.C. § 1057(e), Registrant Nestle Purina PetCare Company, formerly known as Ralston Purina Company, hereby requests that U.S. Registration No. 2,213,091 for the mark FIRST-BITE be cancelled in its entirety. *See* 37 C.F.R. § 2.172. Please note that Ralston Purina Company changed its name to Nestle Purina PetCare Company in December 2001. A copy of the Certificate of Merger evidencing the name change is attached hereto.

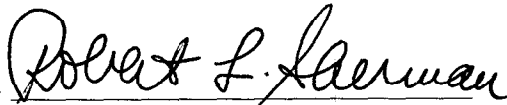
Although the registration was the subject of a cancellation proceeding before the Trademark Trial and Appeal Board ("TTAB") (Cancellation No. 92/041,681), on June 2, 2003, the petitioner filed a notice of voluntary withdrawal of the cancellation. A copy of the notice of withdrawal is attached hereto. On June 26, 2003, a representative from the TTAB confirmed that the cancellation proceeding was dismissed without prejudice. A printout from the Trademark Trial and Appeal Board Information System Index that shows that the proceeding was terminated is attached hereto.

The original certificate of registration has been lost.

Dated: June 27, 2003

Respectfully submitted,

PAUL, HASTINGS, JANOFSKY  
& WALKER LLP

By: 

Robert L. Sherman  
Jennifer Shmulewitz

Attorneys for Registrant  
75 E. 55th Street  
New York, New York 10022  
212-318-6000

# STATE OF MISSOURI



Matt Blunt  
Secretary of State

CORPORATION DIVISION

CORRECTED

CERTIFICATE OF MERGER  
MISSOURI CORPORATION SURVIVING

WHEREAS, Articles of Merger of the following corporations:

NEWCO MERGER COMPANY (#00491844)

INTO:

RALSTON PURINA COMPANY (#00007498)

Organized and Existing Under Law of MISSOURI  
have been received, found to conform to law, and filed.

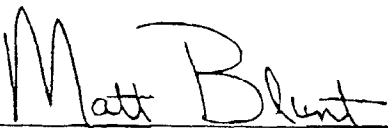
NOW, THEREFORE, I, MATT BLUNT, Secretary of State of Missouri,  
issue this Certificate of Merger, certifying that the merger of  
the aforementioned corporation is effected, with

RALSTON PURINA COMPANY (#00007498)

as the surviving corporation.

NAME SUBSEQUENTLY CHANGED TO: NESTLE PURINA PETCARE COMPANY

IN TESTIMONY WHEREOF, I HAVE SET MY  
HAND AND IMPRINTED THE GREAT SEAL OF  
THE STATE OF MISSOURI, ON THIS, THE  
12<sup>TH</sup> day of DECEMBER, 2001

  
Secretary of State

\$30.00



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Hikari Sales USA, Inc.,	)	
	)	
	)	
	)	
Petitioner,	)	
	)	
v.	)	
	)	
Ralston Purina Company Corporation,	)	Cancellation No.: 92041681
	)	
	)	For the Mark: FIRST-BITE
	)	
Registrant.		

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Notice of Voluntary Withdrawal of Cancellation Proceeding Without Prejudice

Pursuant to TEMP § 601.01, Petitioner Hikari Sales USA, Inc.,  
hereby voluntarily withdraws the above cancellation proceeding without  
prejudice.

Two copies of this motion are submitted along with the  
original.

Dated this 2<sup>nd</sup> day of June, 2003

Respectfully submitted,  
Hikari Sales USA, Inc.

By:   
Christopher K. Clevers - VP  
Petitioner  
2804 McCone Avenue  
Hayward, CA 94545  
510-785-3244

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**Adversary Proceeding Data**

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**Proceeding Number: 92041681**  
**Proceeding Status and Date: Pending 2003-03-04**  
**Interlocutory Attorney Name: KAREN S KUHLKE**  
**Proceeding Location: 845 - TTAB**  
**Proceeding Location Date: 2003-06-26**  
**Proceeding Charged To Location:**  
**Proceeding Charged To Employee Name:**  
**Date Proceeding Filed: 2003-02-10**

**Prosecution History**

<b>Entry#</b>	<b>Entry Date</b>	<b>Due Date</b>	<b>History Text</b>
10	2003-06-26		TERMINATED
9	2003-06-26		BOARD'S DECISION: DISMISSED W/O PREJ
8	2003-06-06		PLN'S NOT OF VOLUNTARY WITHDRAWAL OF CANC. PROC. W/O PREJUDICE
7	2003-05-22		SUSPENDED
6	2003-05-13		D'S MOT FOR EXTEN. OF TIME W/ CONSENT
5	2003-04-28		D'S MOTION GRANTED
4	2003-04-03		D'S MOT FOR EXTEN. OF TIME W/ CONSENT
3	2003-03-04		PENDING, INSTITUTED
2	2003-03-04	2003-04-13	NOTICE AND TRIAL DATES SENT; ANSWER DUE:
1	2003-02-10		FILED AND FEE

**Defendant Name Information:**

**RALSTON PURINA COMPANY**

**Owner Address:**

**RALSTON PURINA COMPANY**

**Checkerboard Square**

**St. Louis, MO 63164**

**Correspondence Address:**

**ROBERT L. SHERMAN**

**PAUL, HASTING, JANOFSKY & WALKER LLP**

**75 E. 55th STREET**

**NEW YORK, NY 10022**

**Defendant Property Information:**

**Serial Number: 75441025**

**Registration Number: 2213091**

**International Classes: 031**

**Application Status: 700 - Registered**

**Application Status Date: 2003-03-04**

**Application Location: 845 - TTAB**

**Application Date in Location: 2003-03-25**

**Law Office Assigned: L10 - TMEG Law Office 101**

**Attorney: ALPHEUS E FORSMAN**

**Domestic Representative:**

**Application Charged to Location: 85Q - TTAB Team D Ex Parte Pending Docket Shelf**

**Application Charged to Employee:**

**Registration Date: 1998-12-22**

**Examiner Name: SUSAN L DUBOIS**

**Mark: FIRST-BITE**

**Application Filing Date: 1998-02-26**

**Plaintiff Name Information:**

**HIKARI SALES USA, INC.**

**Correspondence Address:**

**CHRISTOPHER K. CLEVER**

**HIKARI SALES USA, INC.**

**2804 MCCONE AVENUE**

**HAYWARD, CA 94545**

**Plaintiff Property Information:**

**Serial Number: 0**

**Registration Number: 0**

Bonnie S. Sparks  
Intellectual Property Counsel  
Nestle Purina PetCare Company  
Checkerboard Square - 9T  
St. Louis, Missouri 63164

Christopher K. Clevers  
Hikari Sales USA, Inc.  
2804 McCone Avenue  
Hayward, CA 94545

TTAB

Paul Hastings

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(212) 318-6463  
jennifershmulewitz@paulhastings.com

June 27, 2003

36375.00007

**VIA EXPRESS MAIL**

Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, VA 22202-3514

Re: FIRST-BITE (Reg. No. 2,213,091)

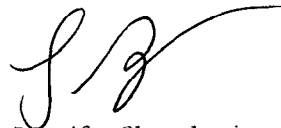
06-30-2003

U.S. Patent & TMO/c/TM Mail Rcpt Dt. #11

Dear Sir:

Enclosed please find a Surrender for Cancellation of U.S. Registration 2,213,091 for the mark FIRST-BITE.

Very truly yours,



Jennifer Shmulewitz  
for PAUL, HASTINGS, JANOFSKY & WALKER LLP

Enclosure

cc: Christopher K. Clevers, Esq. (w/ encl.)  
Bonnie S. Sparks, Esq. (w/ encl.)  
Robert L. Sherman, Esq.

W